

AMENDED IN ASSEMBLY AUGUST 25, 2004

AMENDED IN ASSEMBLY AUGUST 23, 2004

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY JULY 19, 2004

AMENDED IN ASSEMBLY JUNE 14, 2004

SENATE BILL**No. 1549**

Introduced by Senator Figueroa
(Coauthors: Senators Aanestad and Vincent)
(Coauthors: Assembly Members Correa, Runner, and Nation)

February 19, 2004

An act to amend Sections 2455, 2456, 2457, 2472, 2499.5, 5510, 5517, 5620, 5621, 5622, 5641, 5810, 6710, 8030.2, 8030.4, 8030.6, 8030.8, 8710, 18602, 18613, 18627, and 18640 of, to add Sections 5552.5, 5641.1, 5641.2, 5641.3, 5641.4, 5641.6, 6780, and 8785 to, and to add Article 4.5 (commencing with Section 6770) to Chapter 7 of Division 3 of, and Article 5.7 (commencing with Section 8776) to Chapter 15 of Division 3 of, and to repeal Section 5645 of, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1549, as amended, Figueroa. Professions and vocations.

(1) Existing law provides for the regulation of physicians and surgeons practicing osteopathic medicine by the Osteopathic Medical Board of California. Existing law requires an applicant for an original or reciprocity Physicians and Surgeons Certificate to pay an application

fee in a sum not to exceed \$200. Existing law requires a person holding a certificate issued by the board to pay an annual registration fee.

This bill would authorize the board to increase the amount of the fee to not more than \$400 for an original or reciprocity certificate. The bill would instead require persons holding a certificate issued by the board to pay a biennial license fee. Because the bill would increase the amount of revenue deposited into the Contingent Fund of the Osteopathic Medical Board of California, which is a continuously appropriated fund, it would make an appropriation.

(2) Existing law establishes the California Architects Board in the Department of Consumer Affairs. Existing law authorizes the board to appoint an executive officer who is exempt from civil service to exercise the powers and perform the duties delegated by the board. Existing law creates a Landscape Architects Technical Committee within the board and authorizes the board to delegate specified authority to the committee. Existing law authorizes the committee to assist the board in the examination of candidates for a landscape architect's license and to make specified recommendations to the board regarding the regulation of landscape architects in California. Existing law provides for these provisions to become inoperative on July 1, 2005, and repealed on January 1, 2006.

This bill would delete the dates on which these provisions are to become inoperative and repealed and would instead provide that they are to become inoperative on July 1, 2009, and repealed on January 1, 2010. The bill would exempt specified activities of various persons from the laws regulating landscape architects, including, among others, architects, professional engineers, land surveyors, landscape contractors, and irrigation consultants. The bill would also authorize the board to implement, by regulation, an intern development program until July 1, 2009.

(3) Existing law defines certified interior designers and interior design organizations, and permits a certified interior designer to obtain and use a stamp identifying the designer. All documents submitted to a government regulatory organization by a certified interior designer must be affixed by the stamp. The provisions governing certified interior designers will be repealed January 1, 2006.

This bill would extend the repeal date of these provisions to January 1, 2007.

(4) Existing law establishes a Court Reporters Board of California which is responsible for regulating those engaged in the practice of



shorthand reporting. Existing law also establishes the Transcript Reimbursement Fund to provide shorthand reporting services to low-income litigants by reimbursing applicants for the cost, as specified, of preparing transcripts. The moneys in the fund are derived from excess moneys in the Court Reporters' Fund and are continuously appropriated. Under existing law, the provisions creating and governing the use of the fund will become inoperative on July 1, 2005, and will be repealed on January 1, 2006.

This bill would extend the operation of these provisions until July 1, 2006, and would repeal them on January 1, 2007.

By extending the operation of the Transcript Reimbursement Fund, a continuously appropriated fund, this bill would make an appropriation.

(5) Existing law, the Boxing Act, establishes the State Athletic Commission in the Department of Consumer Affairs and specifies the membership of the commission. Existing law requires the commission to appoint an executive officer and fix his or her compensation. Existing law also authorizes the commission to employ other personnel as necessary. Existing law provides for these provisions to become inoperative on July 1, 2005, and to be repealed on January 1, 2006.

This bill would instead provide that these provisions become inoperative on July 1, 2006, and be repealed on January 1, 2007.

Existing law, the Boxing Act, provides for the regulation by the commission of boxing, kickboxing, and martial arts contests, matches, and exhibitions conducted, held, or given within California. Existing law defines the term "martial arts" for the purposes of the act.

This bill would revise the definition of the term "martial arts" to also mean any combination of full contact martial arts, including mixed martial arts.

(6) Existing law, the Professional Engineers Act, creates the Board for Professional Engineers and Land Surveyors in the Department of Consumer Affairs, and makes it responsible for the registration and the regulation of those engaged in the practice of engineering and land surveying. Existing law makes these provisions of the act creating the board inoperative on July 1, 2005, and repeals them on January 1, 2006.

This bill would extend the provisions relating to the board to July 1, 2006, and would change the repeal date to January 1, 2007.

This bill would require a licensee to report to the board a felony conviction and a civil judgment, settlement, arbitration award, or administrative action award of \$50,000 or more, occurring on or after



July 1, 2006, if funds are appropriated for that purpose in the annual Budget Act and sufficient hiring authority is granted to the board for that purpose. The bill would also require a court rendering the judgment or conviction and a local agency, if self-insured, to report to the board. The bill would authorize a petition for review of disciplinary action taken by the board.

Because the bill would increase the duties of a local agency by requiring them to report certain information to the board, it would impose a state-mandated local program. Because the bill would specify additional reporting requirements for engineers and land surveyors, the violation of which would be a crime, it would impose a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, the bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(8) This bill would incorporate additional changes in Section 2472 of the Business and Professions Code, proposed by AB 932, to be operative only if AB 932 and this bill are both chaptered and become effective on or before January 1, 2005, and this bill is chaptered last.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2455 of the Business and Professions
- 2 Code is amended to read:
- 3 2455. The amount of fees and refunds is that established by
- 4 the following schedule for any certificate issued by the
- 5 Osteopathic Medical Board of California. All other fees and
- 6 refunds for any certificate issued by the Osteopathic Medical



1 Board of California which are not prescribed in this schedule, are
2 prescribed in Section 2456. Any and all fees received by the
3 Osteopathic Medical Board of California shall be for the sole
4 purpose of the operation of the board and shall not be used for any
5 other purpose.

6 (a) Each applicant for an original or reciprocity Physicians and
7 Surgeons Certificate shall pay an application fee in a sum not to
8 exceed four hundred dollars (\$400) at the time his or her
9 application is filed.

10 (b) The biennial license fee, unless otherwise provided, shall be
11 set by the board on or before November 1 of each year for the
12 ensuing calendar year at a sum as the board determines necessary
13 to defray the expenses of administering this chapter, under the
14 Osteopathic Act, relating to the issuance of certificates to those
15 applicants, which sum, however, shall not exceed four hundred
16 dollars (\$400) nor be less than twenty-five dollars (\$25).

17 (c) The board shall set a biennial license fee in an amount less
18 than that levied pursuant to subdivision (b) that shall be paid by any
19 applicant who indicates to the board in writing that he or she does
20 not intend to practice under the Osteopathic Act during the current
21 renewal period.

22 (d) The fee for failure to pay the biennial license fee shall be 50
23 percent of the renewal fee but not more than two hundred dollars
24 (\$200).

25 SEC. 2. Section 2456 of the Business and Professions Code
26 is amended to read:

27 2456. (a) Each person holding a certificate issued by the
28 Osteopathic Medical Board of California residing in or out of
29 California shall pay the board a biennial license fee.

30 (b) Fictitious name permits issued by the Osteopathic Medical
31 Board of California as provided in Section 2415 shall expire on
32 December 31 of each year. The initial permit fee shall not exceed
33 one hundred dollars (\$100) and the renewal permit fee shall not
34 exceed one hundred dollars (\$100).

35 SEC. 3. Section 2457 of the Business and Professions Code
36 is amended to read:

37 2457. The failure of any person holding a certificate issued by
38 the Osteopathic Medical Board of California to pay the biennial
39 license fee during the time his or her certificate remains in force

1 shall automatically work a forfeiture of his or her certificate after
2 a period of 60 days from the date of expiration.

3 The certificate shall not be restored except upon written
4 application and the payment to the Osteopathic Medical Board of
5 California of the fee provided by this article. No examination shall
6 be required for the reissuance of a certificate that was forfeited
7 under the provisions of this section.

8 SEC. 4. Section 2472 of the Business and Professions Code
9 is amended to read:

10 2472. (a) The certificate to practice podiatric medicine
11 authorizes the holder to practice podiatric medicine.

12 (b) As used in this chapter, "podiatric medicine" means the
13 diagnosis, medical, surgical, mechanical, manipulative, and
14 electrical treatment of the human foot, including the ankle and
15 tendons that insert into the foot and the nonsurgical treatment of
16 the muscles and tendons of the leg governing the functions of the
17 foot.

18 (c) No podiatrist shall do any amputation or administer an
19 anesthetic other than local. If an anesthetic other than local is
20 required for any procedure, the anesthetic shall be administered by
21 another licensed health care practitioner who is authorized to
22 administer the required anesthetic within the scope of his or her
23 practice.

24 (d) Surgical treatment of the ankle and tendons at the level of
25 the ankle may be performed by a doctor of podiatric medicine who
26 was certified by the board on and after January 1, 1984.

27 (e) Surgical treatment by a podiatrist of the ankle and tendons
28 at the level of the ankle shall be performed only in the following
29 locations:

30 (1) A licensed general acute care hospital, as defined in Section
31 1250 of the Health and Safety Code.

32 (2) A licensed surgical clinic, as defined in Section 1204 of the
33 Health and Safety Code, if the podiatrist has surgical privileges,
34 including the privilege to perform surgery on the ankle, in a
35 general acute care hospital described in paragraph (1) and meets
36 all the protocols of the surgical clinic.

37 (3) An ambulatory surgical center that is certified to participate
38 in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395
39 et seq.) of the federal Social Security Act, if the podiatrist has
40 surgical privileges, including the privilege to perform surgery on

the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

(4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the podiatrist has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a “freestanding physical plant” means any building that is not physically attached to a building where inpatient services are provided.

(f) The amendment of this section made at the 1983–84 Regular Session of the Legislature is intended to codify existing practice.

(g) A podiatrist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

SEC. 4.5. Section 2472 of the Business and Professions Code is amended to read:

2472. (a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

(b) As used in this chapter, “podiatric medicine” means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

(c) A doctor of podiatric medicine may not administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

(d) (1) A doctor of podiatric medicine who is ankle certified by the board on and after January 1, 1984, may do the following:

(A) Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant to subdivision (e).

(B) Perform services under the direct supervision of a physician and surgeon, as an assistant at surgery, in surgical

1 procedures that are otherwise beyond the scope of practice of a
2 doctor of podiatric medicine.

3 (C) Perform a partial amputation of the foot no further
4 proximal than the Chopart's joint.

5 (2) Nothing in this subdivision shall be construed to permit a
6 doctor of podiatric medicine to function as a primary surgeon for
7 any procedure beyond his or her scope of practice.

8 (e) A doctor of podiatric medicine may perform surgical
9 treatment of the ankle and tendons at the level of the ankle only in
10 the following locations:

11 (1) A licensed general acute care hospital, as defined in Section
12 1250 of the Health and Safety Code.

13 (2) A licensed surgical clinic, as defined in Section 1204 of the
14 Health and Safety Code, if the doctor of podiatric medicine has
15 surgical privileges, including the privilege to perform surgery on
16 the ankle, in a general acute care hospital described in paragraph
17 (1) and meets all the protocols of the surgical clinic.

18 (3) An ambulatory surgical center that is certified to participate
19 in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395
20 et seq.) of the federal Social Security Act, if the doctor of podiatric
21 medicine has surgical privileges, including the privilege to
22 perform surgery on the ankle, in a general acute care hospital
23 described in paragraph (1) and meets all the protocols of the
24 surgical center.

25 (4) A freestanding physical plant housing outpatient services of
26 a licensed general acute care hospital, as defined in Section 1250
27 of the Health and Safety Code, if the doctor of podiatric medicine
28 has surgical privileges, including the privilege to perform surgery
29 on the ankle, in a general acute care hospital described in
30 paragraph (1). For purposes of this section, a "freestanding
31 physical plant" means any building that is not physically attached
32 to a building where inpatient services are provided.

33 (5) An outpatient setting accredited pursuant to subdivision (g)
34 of Section 1248.1 of the Health and Safety Code.

35 (f) A doctor of podiatric medicine shall not perform an
36 admitting history and physical examination of a patient in an acute
37 care hospital where doing so would violate the regulations
38 governing the Medicare program.

(g) The amendment of this section made at the 1983–84 Regular Session of the Legislature is intended to codify existing practice.

(h) A podiatrist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

SEC. 5. Section 2499.5 of the Business and Professions Code is amended to read:

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is established by the board in accordance with Section 2499.6. Fees collected pursuant to this section shall be fixed by the board in amounts not to exceed the actual costs of providing the service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of twenty dollars (\$20) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(b) The oral examination fee shall be seven hundred dollars (\$700), or the actual cost, whichever is lower, and shall be paid by each applicant. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the board 30 days prior to the examination date, only the examination fee is returnable to the applicant. The board may charge an examination fee for any subsequent reexamination of the applicant.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars (\$800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. The board may reduce the initial license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the board or who has completed a postgraduate training program approved

1 by the board within six months prior to the payment of the initial
2 license fee.

3 (d) The biennial renewal fee shall be nine hundred dollars
4 (\$900). Any licensee enrolled in an approved residency program
5 shall be required to pay only 50 percent of the biennial renewal fee
6 at the time of his or her first renewal.

7 (e) The delinquency fee is one hundred fifty dollars (\$150).

8 (f) The duplicate wall certificate fee is forty dollars (\$40).

9 (g) The duplicate renewal receipt fee is forty dollars (\$40).

10 (h) The endorsement fee is thirty dollars (\$30).

11 (i) The letter of good standing fee or for loan deferment is thirty
12 dollars (\$30).

13 (j) There shall be a fee of sixty dollars (\$60) for the issuance of
14 a resident's license under Section 2475.

15 (k) The application fee for ankle certification under Section
16 2472 for persons licensed prior to January 1, 1984, shall be fifty
17 dollars (\$50). The examination and reexamination fee for this
18 certification shall be seven hundred dollars (\$700).

19 (l) The filing fee to appeal the failure of an oral examination
20 shall be twenty-five dollars (\$25).

21 (m) The fee for approval of a continuing education course or
22 program shall be one hundred dollars (\$100).

23 SEC. 6. Section 5510 of the Business and Professions Code
24 is amended to read:

25 5510. There is in the Department of Consumer Affairs a
26 California Architects Board which consists of 10 members.

27 Any reference in law to the California Board of Architectural
28 Examiners shall mean the California Architects Board.

29 This section shall become inoperative on July 1, 2009, and, as
30 of January 1, 2010, is repealed, unless a later enacted statute,
31 which becomes effective on or before January 1, 2010, deletes or
32 extends the dates on which it becomes inoperative and is repealed.
33 The repeal of this section renders the board subject to the review
34 required by Division 1.2 (commencing with Section 473).

35 SEC. 7. Section 5517 of the Business and Professions Code
36 is amended to read:

37 5517. The board may appoint a person exempt from civil
38 service who shall be designated as an executive officer and who
39 shall exercise the powers and perform the duties delegated by the
40 board and vested in him or her by this chapter.

1 This section shall become inoperative on July 1, 2009, and, as
2 of January 1, 2010, is repealed, unless a later enacted statute,
3 which becomes effective on or before January 1, 2010, deletes or
4 extends the dates on which it becomes inoperative and is repealed.

5 SEC. 8. Section 5552.5 is added to the Business and
6 Professions Code, to read:

7 5552.5. The board may, by regulation, implement an intern
8 development program until July 1, 2009.

9 SEC. 9. Section 5620 of the Business and Professions Code
10 is amended to read:

11 5620. The duties, powers, purposes, responsibilities, and
12 jurisdiction of the California State Board of Landscape Architects
13 that were succeeded to and vested with the Department of
14 Consumer Affairs in accordance with Chapter 908 of the Statutes
15 of 1994 are hereby transferred to the California Architects Board.
16 The Legislature finds that the purpose for the transfer of power is
17 to promote and enhance the efficiency of state government and that
18 assumption of the powers and duties by the California Architects
19 Board shall not be viewed or construed as a precedent for the
20 establishment of state regulation over a profession or vocation that
21 was not previously regulated by a board, as defined in Section 477.

22 (a) There is in the Department of Consumer Affairs a
23 California Architects Board as defined in Article 2 (commencing
24 with Section 5510) of Chapter 3.

25 Whenever in this chapter “board” is used it refers to the
26 California Architects Board.

27 (b) Except as provided herein, the board may delegate its
28 authority under this chapter to the Landscape Architects Technical
29 Committee.

30 (c) After review of proposed regulations, the board may direct
31 the examining committee to notice and conduct hearings to adopt,
32 amend, or repeal regulations pursuant to Section 5630, provided
33 that the board itself shall take final action to adopt, amend, or
34 repeal those regulations.

35 (d) The board shall not delegate its authority to discipline a
36 landscape architect or to take action against a person who has
37 violated this chapter.

38 (e) This section shall become inoperative on July 1, 2009, and
39 as of January 1, 2010, is repealed, unless a later enacted statute,

1 that becomes operative on or before January 1, 2010, deletes or
2 extends the dates on which it becomes inoperative and is repealed.

3 SEC. 10. Section 5621 of the Business and Professions Code
4 is amended to read:

5 5621. (a) There is hereby created within the jurisdiction of
6 the board, a Landscape Architects Technical Committee,
7 hereinafter referred to in this chapter as the landscape architects
8 committee.

9 (b) The landscape architects committee shall consist of five
10 members who shall be licensed to practice landscape architecture
11 in this state. The Governor shall appoint three of the members. The
12 Senate Committee on Rules and the Speaker of the Assembly shall
13 appoint one member each.

14 (c) The initial members to be appointed by the Governor are as
15 follows: one member for a term of one year; one member for a term
16 of two years; and one member for a term of three years. The Senate
17 Committee on Rules and the Speaker of the Assembly shall
18 initially each appoint one member for a term of four years.
19 Thereafter, appointments shall be made for four-year terms,
20 expiring on June 1 of the fourth year and until the appointment and
21 qualification of his or her successor or until one year shall have
22 elapsed whichever first occurs. Vacancies shall be filled for the
23 unexpired term.

24 (d) No person shall serve as a member of the landscape
25 architects committee for more than two consecutive terms.

26 (e) This section shall become inoperative on July 1, 2009, and
27 as of January 1, 2010, is repealed, unless a later enacted statute,
28 that becomes operative on or before January 1, 2010, deletes or
29 extends the dates on which it becomes inoperative and is repealed.

30 SEC. 11. Section 5622 of the Business and Professions Code
31 is amended to read:

32 5622. (a) The landscape architects committee may assist the
33 board in the examination of candidates for a landscape architect's
34 license and, after investigation, evaluate and make
35 recommendations regarding potential violations of this chapter.

36 (b) The landscape architects committee may investigate, assist,
37 and make recommendations to the board regarding the regulation
38 of landscape architects in this state.



(c) The landscape architects committee may perform duties and functions that have been delegated to it by the board pursuant to Section 5620.

(d) The landscape architects committee may send a representative to all meetings of the full board to report on the committee's activities.

(e) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 5641 of the Business and Professions Code is amended to read:

5641. This chapter shall not be deemed to prohibit any person from preparing drawings for the conceptual design and placement of tangible objects and landscape features or plans, drawings, and specifications for the selection, placement, or use of plants for a single family dwelling. Construction documents, details, or specifications for the tangible objects or landscape features, and alteration of site requiring grading and drainage plans shall be prepared by a licensed professional as required by law.

SEC. 13. Section 5641.1 is added to the Business and Professions Code, to read:

5641.1. This chapter shall not be deemed to prohibit any person from preparing any plans, drawings, or specifications for any property owned by that person.

SEC. 14. Section 5641.2 is added to the Business and Professions Code, to read:

5641.2. Every person who holds a valid license issued by the State of California under the provisions of Chapter 1 (commencing with Section 6721) of the Food and Agricultural Code, authorizing engagement in the business of selling nursery stock in this state, may engage in the preparation of planting plans or drawings as an adjunct to merchandising nursery stock and related products, but may not use the title of landscape architect. That activity is exempt from licensure under the provisions of this chapter.

SEC. 15. Section 5641.3 is added to the Business and Professions Code, to read:

5641.3. An architect, professional engineer or land surveyor licensed or registered under the statutes of this state, insofar as the licensed or registered professional practices the profession for

1 which he or she is licensed or registered, is exempt from the
2 provisions of this chapter, except that an architect, professional
3 engineer, or land surveyor may not use the title “landscape
4 architect” unless he or she holds a license as required under this
5 chapter.

6 SEC. 16. Section 5641.4 is added to the Business and
7 Professions Code, to read:

8 5641.4. A landscape contractor licensed under the statutes of
9 this state may design systems and facilities for work to be
10 performed and supervised by that landscape contractor, insofar as
11 he or she works within the classification for which he or she is
12 licensed. The licensed landscape contractor is exempt from the
13 provisions of this chapter, except that he or she may not use the title
14 “landscape architect” unless he or she holds a license as required
15 under this chapter.

16 SEC. 17. Section 5641.6 is added to the Business and
17 Professions Code, to read:

18 5641.6. (a) Nothing contained in this chapter shall be deemed
19 to prohibit a person from engaging in the practice of, or offering
20 to practice as, an irrigation consultant.

21 (b) As used in this section, “irrigation consultant” means a
22 person who performs professional services such as consultation,
23 investigation, reconnaissance, research, design, preparation of
24 drawings and specifications and responsible supervision, where
25 the dominant purpose of such service is the design of landscape
26 irrigation, in accordance with accepted professional standards of
27 public health and safety.

28 SEC. 18. Section 5645 of the Business and Professions Code
29 is repealed.

30 SEC. 19. Section 5810 of the Business and Professions Code
31 is amended to read:

32 5810. (a) This chapter shall be subject to the review required
33 by Division 1.2 (commencing with Section 473).

34 (b) This chapter shall remain in effect only until January 1,
35 2007, and as of that date is repealed, unless a later enacted statute,
36 that is enacted before January 1, 2007, deletes or extends that date.

37 SEC. 19.5. Section 6710 of the Business and Professions
38 Code is amended to read:



6710. (a) There is in the Department of Consumer Affairs a Board for Professional Engineers and Land Surveyors, which consists of 13 members.

(b) Any reference in any law or regulation to the Board of Registration for Professional Engineers and Land Surveyors is deemed to refer to the Board for Professional Engineers and Land Surveyors.

(c) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). The board shall not be required to prepare an analysis and submit a report pursuant to Section 473.2.

SEC. 19.6. Article 4.5 (commencing with Section 6770) is added to Chapter 7 of Division 3 of the Business and Professions Code, to read:

Article 4.5. Reporting Requirements

6770. (a) A licensee shall report to the board in writing the occurrence of any of the following events that occurred on or after July 1, 2006, within 90 days of the date the licensee has knowledge of the event:

(1) The conviction of the licensee of any felony.

(2) The conviction of the licensee of any other crime that is substantially related to the qualifications, functions, and duties of a licensed professional engineer.

(3) Any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of professional engineering if the amount or value of the judgment, settlement, or arbitration award is fifty thousand dollars (\$50,000) or greater.

(b) The report required by subdivision (a) shall be signed by the licensee and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative

1 agency or court, the report shall set forth the title of the matter,
2 court or agency name, docket number, and the date the reportable
3 event occurred.

4 (c) A licensee shall promptly respond to oral or written
5 inquiries from the board concerning the reportable events,
6 including inquiries made by the board in conjunction with license
7 renewal.

8 (d) Nothing in this section shall impose a duty upon any
9 licensee to report to the board the occurrence of any of the events
10 set forth in subdivision (a) either by or against any other licensee.

11 (e) Failure of a licensee to report to the board in the time and
12 manner required by this section shall be grounds for disciplinary
13 action.

14 (f) For the purposes of this section, a conviction includes the
15 initial plea, verdict, or finding of guilt; a plea of no contest; or
16 pronouncement of sentence by a trial court even though the
17 conviction may not be final or sentence actually imposed until all
18 appeals are exhausted.

19 6770.1. Within 30 days of entry of a conviction described in
20 paragraphs (1) and (2) of subdivision (a) of Section 6770 or a
21 judgment described in paragraph (3) of subdivision (a) of Section
22 6770 by a court of this state that has been notified that the
23 defendant is a licensee of the board, the court that rendered the
24 conviction or judgment shall report that fact to the board and
25 provide the board with a copy of the conviction or judgment and
26 any orders or opinions of the court accompanying or ordering the
27 conviction or judgment.

28 6770.2. (a) Within 30 days of payment of all or any portion
29 of any civil action judgment, settlement, or arbitration award
30 described in Section 6770 against a licensee of the board in which
31 the amount or value of the judgment, settlement, or arbitration
32 award is fifty thousand dollars (\$50,000) or greater, any insurer
33 providing professional liability insurance to that licensee shall
34 report to the board the name of the licensee; the amount or value
35 of the judgment, settlement, or arbitration award; the amount paid
36 by the insurer; and the identity of the payee.

37 (b) Within 30 days of payment of all or any portion of any civil
38 action judgment, settlement, or arbitration award described in
39 Section 6770 against a licensee of the board in which the amount
40 or value of the judgment, settlement, or arbitration award is fifty

1 thousand dollars (\$50,000) or greater, any state or local
2 government agency that self insures that licensee shall report to the
3 board the name of the licensee; the amount or value of the
4 judgment, settlement, or arbitration award; the amount paid; and
5 the identity of the payee.

6 6770.3. The requirements of Sections 6770, 6770.1, and
7 6770.2 shall apply if a party to the civil action, settlement, or
8 arbitration award is or was a sole proprietorship, partnership, firm,
9 corporation, or state or local government agency in which the
10 licensee is or was an owner, partner, member, officer, or employee
11 and is or was the licensee in responsible charge of that portion of
12 the project that was the subject of the civil judgment, settlement,
13 or arbitration award.

14 6770.4. (a) Notwithstanding any other provision of law, a
15 licensee shall not be considered to have violated a confidential
16 settlement agreement or other confidential agreement by
17 providing a report to the board as required by this article.

18 6770.5. The board may adopt regulations to further define the
19 reporting requirements of Sections 6770, 6770.1, and 6770.2.

20 6770.6. This article shall become operative on July 1, 2006,
21 only if an appropriation is made from the Professional Engineer's
22 and Land Surveyor's Fund for the 2006–07 fiscal year in the
23 annual Budget Act to fund the activities of this article, and
24 sufficient hiring authority is granted to the board pursuant to a
25 budget change proposal to provide sufficient staffing to implement
26 this article.

27 *SEC. 19.7. Section 6780 is added to the Business and*
28 *Professions Code, to read:*

29 6780. *A petitioner may petition the board for reinstatement or*
30 *modification of penalty, including reduction, modification, or*
31 *termination of probation, after the following minimum periods*
32 *have elapsed from the effective date of the decision ordering the*
33 *disciplinary action, or if the order of the board or any portion of*
34 *it is stayed by a court of law, from the date the disciplinary action*
35 *is actually implemented in its entirety:*

36 *(1) Except as otherwise provided in this section, at least three*
37 *years for reinstatement of a certificate that was revoked or*
38 *surrendered. However, the board may, in its sole discretion, specify*
39 *in its order of revocation or surrender a lesser period of time that*
40 *shall be at minimum one year.*

1 (2) *At least two years for early termination of a probation*
2 *period of three years or more.*

3 (3) *At least one year for early termination of a probation period*
4 *of less than three years.*

5 (4) *At least one year for reduction or modification of a*
6 *condition of probation.*

7 (b) *The board shall notify the Attorney General of the filing of*
8 *the petition. The petitioner and the Attorney General shall be given*
9 *timely notice by letter of the time and place of the hearing on the*
10 *petition, and the petitioner and the Attorney General shall be given*
11 *the opportunity to present both oral and documentary evidence*
12 *and argument to the board. The petitioner shall at all times have*
13 *the burden of proof to establish by clear and convincing evidence*
14 *that he or she is entitled to the relief sought in the petition.*

15 (c) *The board itself or an administrative law judge, if one is*
16 *designated by the board, shall hear the petition and shall prepare*
17 *a written decision setting forth the reasons supporting the*
18 *decision.*

19 (d) *The board may grant or deny the petition or may impose any*
20 *terms and conditions that it reasonably deems appropriate as a*
21 *condition of reinstatement or reduction or modification of the*
22 *penalty.*

23 (e) *No petition shall be considered while the petitioner is under*
24 *sentence for any criminal offense, including any period during*
25 *which the petitioner is on court-imposed probation or parole. No*
26 *petition shall be considered while there is an accusation or petition*
27 *to revoke probation pending against the petitioner.*

28 (f) *The board may, in its discretion, deny without hearing or*
29 *argument any petition that is filed pursuant to this section within*
30 *a period of two years from the effective date of a prior decision*
31 *following a hearing under this section.*

32 (g) *Judicial review of the board's decision following a hearing*
33 *under this section may be sought by way of a petition for writ of*
34 *administrative mandamus pursuant to Section 1094.5 of the Code*
35 *of Civil Procedure. The party seeking to overturn the board's*
36 *decision shall have the burden of proof in any mandamus*
37 *proceeding. In the mandamus proceeding, if it is alleged that there*
38 *has been an abuse of discretion because the board's findings are*
39 *not supported by the evidence, abuse of discretion is established*

1 *if the court determines that the findings are not supported by*
2 *substantial evidence in light of the whole record.*

3 *(h) The following definitions apply for purposes of this section:*

4 *(1) "Certificate" includes certificate of registration or license*
5 *as a professional engineer; certificates of authority to use the titles*
6 *"structural engineer," "geotechnical engineer," "soil engineer,"*
7 *"soils engineer," or "consulting engineer;" and certification as*
8 *an engineer-in-training.*

9 *(2) "Petitioner" means a professional engineer or an*
10 *engineer-in-training whose certificate has been revoked,*
11 *suspended, or surrendered or placed on probation.*

12 SEC. 20. Section 8030.2 of the Business and Professions
13 Code is amended to read:

14 8030.2. (a) To provide shorthand reporting services to
15 low-income litigants in civil cases, who are unable to otherwise
16 afford those services, funds generated by fees received by the
17 board pursuant to subdivision (c) of Section 8031 in excess of
18 funds needed to support the board's operating budget for the fiscal
19 year in which a transfer described below is made shall be used by
20 the board for the purpose of establishing and maintaining a
21 Transcript Reimbursement Fund. The Transcript Reimbursement
22 Fund shall be established by a transfer of funds from the Court
23 Reporters' Fund and shall be maintained in an amount no less than
24 three hundred thousand dollars (\$300,000) for each fiscal year.

25 (b) All moneys held in the Court Reporters' Fund on the
26 effective date of this section in excess of the board's operating
27 budget for the 1996–97 fiscal year shall be used as provided in
28 subdivision (a).

29 (c) Refunds and unexpended funds that are anticipated to
30 remain in the Transcript Reimbursement Fund at the end of the
31 fiscal year shall be considered by the board in establishing the fee
32 assessment pursuant to Section 8031 so that the assessment shall
33 maintain the Transcript Reimbursement Fund at the appropriate
34 level in the following fiscal year.

35 (d) The Transcript Reimbursement Fund is hereby created in
36 the State Treasury. Notwithstanding Section 13340 of the
37 Government Code, moneys in the Transcript Reimbursement
38 Fund are continuously appropriated for the purposes of this
39 chapter.

(e) Applicants who have been reimbursed pursuant to this chapter for services provided to litigants and who are awarded court costs or attorneys' fees by judgment or by settlement agreement shall refund the full amount of that reimbursement to the fund within 90 days of receipt of the award or settlement.

(f) Subject to the limitations of this chapter, the board shall maintain the fund at a level that is sufficient to pay all qualified claims. To accomplish this objective, the board shall utilize all refunds, unexpended funds, fees, and any other moneys received by the board.

(g) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of June 29, 2006, shall be transferred to the Court Reporters' Fund.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 21. Section 8030.4 of the Business and Professions Code is amended to read:

8030.4. As used in this chapter:

(a) "Qualified legal services project" means a nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons, has a board of directors or advisory board composed of both attorneys and consumers of legal services, and provides for community participation in legal services programming. Legal services projects funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(b) "Qualified support center" means an incorporated nonprofit legal services center, having an office or offices in California, which office or offices provide legal services or technical assistance without charge to qualified legal services projects and their clients on a multicounty basis in California. Support centers funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

1 (c) “Other qualified project” means a nonprofit organization
2 formed for charitable or other public purposes, not receiving funds
3 from the Legal Services Corporation or pursuant to the Older
4 Americans Act, which organization or association provides free
5 legal services to indigent persons.

6 (d) “Pro bono attorney” means any attorney, law firm, or legal
7 corporation, licensed to practice law in this state, which undertakes
8 without charge to the party the representation of an indigent
9 person, referred by a qualified legal services project, qualified
10 support center, or other qualified project, in a case not considered
11 to be fee generating as defined in this chapter.

12 (e) “Applicant” means a qualified legal services project,
13 qualified support center, other qualified project, or pro bono
14 attorney applying to receive funds from the Transcript
15 Reimbursement Fund established by this chapter. The term
16 “applicant” shall not include persons appearing pro se to represent
17 themselves at any stage of the case.

18 (f) “Indigent person” means either a person whose income is
19 125 percent or less of the current poverty threshold established by
20 the Office of Management and Budget of the United States, a
21 disabled person whose income after meeting medical and other
22 disability-related special expenses is 125 percent or less of that
23 current poverty threshold, or a person who receives or is eligible
24 to receive supplemental security income.

25 (g) “Fee-generating case” means any case or matter which, if
26 undertaken on behalf of an eligible client by an attorney in private
27 practice, reasonably may be expected to result in payment of a fee
28 for legal services from an award to a client, from public funds, or
29 from an opposing party. A reasonable expectation as to payment
30 of a legal fee exists wherever a client enters into a contingent fee
31 agreement with his or her lawyer. If there is no contingent fee
32 agreement, a case is not considered fee generating if adequate
33 representation is deemed to be unavailable because of the
34 occurrence of any of the following circumstances:

35 (1) Where the applicant has determined that referral is not
36 possible because of any of the following:

37 (A) The case has been rejected by the local lawyer referral
38 service, or if there is no such service, by two private attorneys who
39 have experience in the subject matter of the case.

1 (B) Neither the referral service nor any lawyer will consider the
2 case without payment of a consultation fee.

3 (C) The case is of the type that private attorneys in the area
4 ordinarily do not accept, or do not accept without prepayment of
5 a fee.

6 (D) Emergency circumstances compel immediate action
7 before referral can be made, but the client is advised that, if
8 appropriate and consistent with professional responsibility,
9 referral will be attempted at a later time.

10 (2) Where recovery of damages is not the principal object of the
11 case and a request for damages is merely ancillary to an action for
12 equitable or other nonpecuniary relief; or inclusion of a
13 counterclaim requesting damages is necessary for effective
14 defense or because of applicable rules governing joinder of
15 counterclaims.

16 (3) Where a court appoints an applicant or an employee of an
17 applicant pursuant to a statute or a court rule or practice of equal
18 applicability to all attorneys in the jurisdiction.

19 (4) In any case involving the rights of a claimant under a public
20 supported benefit program for which entitlement to benefit is
21 based on need.

22 (h) “Legal Services Corporation” means the Legal Services
23 Corporation established under the Legal Services Corporation Act
24 of 1974, Public Law 93-355, as amended.

25 (i) “Supplemental security income recipient” means an
26 individual receiving or eligible to receive payments under Title
27 XVI of the Social Security Act, Public Law 92-603, as amended,
28 or payment under Chapter 3 (commencing with Section 12000) of
29 Part 3 of Division 9 of the Welfare and Institutions Code.

30 (j) “Lawyer referral service” means a lawyer referral program
31 authorized by the State Bar of California pursuant to the rules of
32 professional conduct.

33 (k) “Older Americans Act” means the Older Americans Act of
34 1965, Public Law 89-73, as amended.

35 (l) “Rules of professional conduct” means those rules adopted
36 by the State Bar pursuant to Sections 6076 and 6077.

37 (m) “Certified shorthand reporter” means a shorthand reporter
38 certified pursuant to Article 3 (commencing with Section 8020)
39 performing shorthand reporting services pursuant to Section 8017.

(n) “Case” means a single legal proceeding from its inception, through all levels of hearing, trial, and appeal, until its ultimate conclusion and disposition.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 22. Section 8030.6 of the Business and Professions Code is amended to read:

8030.6. The board shall disburse funds from the Transcript Reimbursement Fund for the costs, exclusive of per diem charges, of preparing either an original transcript and one copy thereof, or where appropriate, a copy of the transcript, of court or deposition proceedings, or both, incurred as a contractual obligation between the shorthand reporter and the applicant, for litigation conducted in California. If no deposition transcript is ordered, the board may reimburse the applicant or the certified shorthand reporter designated in the application for per diem costs. The rate of per diem for depositions shall not exceed seventy-five dollars (\$75) for a half day, or one hundred twenty-five dollars (\$125) for a full day. In the event that a transcript is ordered within one year of the date of the deposition, but subsequent to the per diem having been reimbursed by the Transcript Reimbursement Fund, the amount of the per diem shall be deducted from the amount of transcript. Reimbursement may be obtained through the following procedures:

(a) The applicant or certified shorthand reporter shall promptly submit to the board the certified shorthand reporter’s invoice for transcripts together with the appropriate documentation as is required by this chapter.

(b) Except as provided in subdivision (c), the board shall promptly determine if the applicant or the certified shorthand reporter is entitled to reimbursement under this chapter and shall make payment as follows:

(1) Regular customary charges for preparation of original deposition transcripts and one copy thereof, or a copy of the transcripts.

(2) Regular customary charges for expedited deposition transcripts up to a maximum of two thousand five hundred dollars (\$2,500) per case.

1 (3) Regular customary charges for the preparation of original
2 transcripts and one copy thereof, or a copy of transcripts of court
3 proceedings.

4 (4) Regular customary charges for expedited or daily charges
5 for preparation of original transcripts and one copy thereof or a
6 copy of transcripts of court proceedings.

7 (5) The charges may not include notary or handling fees. The
8 charges may include actual shipping costs and exhibits, except that
9 the cost of exhibits may not exceed thirty-five cents (\$0.35) each
10 or a total of thirty-five dollars (\$35) per transcript.

11 (c) The maximum amount reimbursable by the fund under
12 subdivision (b) may not exceed twenty thousand dollars (\$20,000)
13 per case per year.

14 (d) If entitled, and funds are available, the board shall forthwith
15 disburse the appropriate sum to the applicant or the certified
16 shorthand reporter when documentation as provided in
17 subdivision (d) of Section 8030.8 accompanies the application. A
18 notice shall be sent to the recipient requiring the recipient to file
19 a notice with the court in which the action is pending stating the
20 sum of reimbursement paid pursuant to this section. The notice
21 filed with the court shall also state that if the sum is subsequently
22 included in any award of costs made in the action, that the sum is
23 to be ordered refunded by the applicant to the Transcript
24 Reimbursement Fund whenever the sum is actually recovered as
25 costs. The court may not consider whether payment has been made
26 from the Transcript Reimbursement Fund in determining the
27 appropriateness of any award of costs to the parties. The board
28 shall also forthwith notify the applicant that the reimbursed sum
29 has been paid to the certified shorthand reporter and shall likewise
30 notify the applicant of the duty to refund any of the sum actually
31 recovered as costs in the action.

32 (e) If not entitled, the board shall forthwith return a copy of the
33 invoice to the applicant and the designated certified shorthand
34 reporter together with a notice stating the grounds for denial.

35 (f) The board shall complete its actions under this subdivision
36 within 30 days of receipt of the invoice and all required
37 documentation, including a completed application.

38 (g) Applications for reimbursements from the fund shall be
39 filled on a first-come basis.

1 (h) Applications for reimbursement that cannot be paid from
2 the fund due to insufficiency of the fund for that fiscal year shall
3 be held over until the next fiscal year to be paid out of the renewed
4 fund.

5 This section shall become inoperative on July 1, 2006, and, as
6 of January 1, 2007, is repealed, unless a later enacted statute, that
7 becomes operative on or before January 1, 2007, deletes or extends
8 the dates on which it becomes inoperative and is repealed.

9 SEC. 23. Section 8030.8 of the Business and Professions
10 Code is amended to read:

11 8030.8. (a) For purposes of this chapter, documentation
12 accompanying an invoice is sufficient to establish entitlement for
13 reimbursement from the Transcript Reimbursement Fund if it is
14 filed with the executive officer on an application form prescribed
15 by the board that is complete in all respects, and that establishes
16 all of the following:

17 (1) The case name and number and that the litigant or litigants
18 requesting the reimbursement are indigent persons.

19 (2) The applicant is qualified under the provisions of this
20 chapter.

21 (3) The case is not a fee-generating case, as defined in Section
22 8030.4.

23 (4) The invoice or other documentation shall evidence that the
24 certified shorthand reporter to be reimbursed was, at the time the
25 services were rendered, a duly licensed certified shorthand
26 reporter.

27 (5) The invoice shall be accompanied by a statement, signed by
28 the applicant, stating that the charges are for transcripts actually
29 provided as indicated on the invoice.

30 (6) The applicant has acknowledged, in writing, that as a
31 condition of entitlement for reimbursement that the applicant
32 agrees to refund the entire amount disbursed from the Transcript
33 Reimbursement Fund from any costs or attorneys' fees awarded
34 to the applicant by the court or provided for in any settlement
35 agreement in the case.

36 (7) The certified shorthand reporter's invoice for transcripts
37 shall include separate itemizations of charges claimed, as follows:

38 (A) Total charges and rates for customary services in
39 preparation of an original transcript and one copy or a copy of the
40 transcript of depositions.

1 (B) Total charges and rates for expedited deposition transcripts.

2 (C) Total charges and rates in connection with transcription of
3 court proceedings.

4 (b) For an applicant claiming to be eligible pursuant to
5 subdivision (a), (b), or (c) of Section 8030.4, a letter from the
6 director of the project or center, certifying that the project or center
7 meets the standards set forth in one of those subdivisions and that
8 the litigant or litigants are indigent persons, is sufficient
9 documentation to establish eligibility.

10 (c) For an applicant claiming to be eligible pursuant to
11 subdivision (d) of Section 8030.4, a letter certifying that the
12 applicant meets the requirements of that subdivision, that the case
13 is not a fee-generating case, as defined in subdivision (g) of
14 Section 8030.4, and that the litigant or litigants are indigent
15 persons, together with a letter from the director of a project or
16 center defined in subdivision (a), (b), or (c) of Section 8030.4
17 certifying that the litigant or litigants had been referred by that
18 project or center to the applicant, is sufficient documentation to
19 establish eligibility.

20 (d) The applicant may receive reimbursement directly from the
21 board when the applicant has previously paid the certified
22 shorthand reporter for transcripts as provided in Section 8030.6.
23 To receive payment directly, the applicant shall submit, in addition
24 to all other required documentation, an itemized statement signed
25 by the certified shorthand reporter performing the services that
26 describes payment for transcripts in accordance with the
27 requirements of Section 8030.6.

28 (e) The board may prescribe appropriate forms to be used by
29 applicants and certified shorthand reporters to facilitate these
30 requirements.

31 (f) This chapter does not restrict the contractual obligation or
32 payment for services, including, but not limited to, billing the
33 applicant directly, during the pendency of the claim.

34 This section shall become inoperative on July 1, 2006, and, as
35 of January 1, 2007, is repealed, unless a later enacted statute, that
36 becomes operative on or before January 1, 2007, deletes or extends
37 the dates on which it becomes inoperative and is repealed.

38 SEC. 24. Section 8710 of the Business and Professions Code
39 is amended to read:

1 8710. (a) The Board for Professional Engineers and Land
2 Surveyors is vested with power to administer the provisions and
3 requirements of this chapter, and may make and enforce rules and
4 regulations that are reasonably necessary to carry out its
5 provisions.

6 (b) The board may adopt rules and regulations of professional
7 conduct that are not inconsistent with state and federal law. The
8 rules and regulations may include definitions of incompetence and
9 negligence. Every person who holds a license or certificate issued
10 by the board pursuant to this chapter, or a license or certificate
11 issued to a civil engineer pursuant to Chapter 7 (commencing with
12 Section 6700), shall be governed by these rules and regulations.

13 (c) This section shall become inoperative on July 1, 2006, and,
14 as of January 1, 2007, is repealed, unless a later enacted statute,
15 which becomes effective on or before January 1, 2007, deletes or
16 extends the dates on which it becomes inoperative and is repealed.
17 The repeal of this section shall render the board subject to the
18 review required by Division 1.2 (commencing with Section 473).

19 SEC. 25. Article 5.7 (commencing with Section 8776) is
20 added to Chapter 15 of Division 3 of the Business and Professions
21 Code, to read:

22
23 Article 5.7. Reporting Requirements
24

25 8776. (a) A licensee shall report to the board in writing the
26 occurrence of any of the following events that occurred on or after
27 July 1, 2006, within 90 days of the date the licensee has knowledge
28 of the event:

29 (1) The conviction of the licensee of any felony.

30 (2) The conviction of the licensee of any other crime that is
31 substantially related to the qualifications, functions, and duties of
32 a licensed land surveyor.

33 (3) Any civil action judgment, settlement, arbitration award, or
34 administrative action resulting in a judgment, settlement, or
35 arbitration award against the licensee in any action alleging fraud,
36 deceit, misrepresentation, breach or violation of contract,
37 negligence, incompetence, or recklessness by the licensee in the
38 practice of land surveying if the amount or value of the judgment,
39 settlement, or arbitration award is fifty thousand dollars (\$50,000)
40 or greater.

(b) The report required by subdivision (a) shall be signed by the licensee and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall set forth the title of the matter, court or agency name, docket number, and the dates the reportable event occurred.

(c) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

(d) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a) either by or against any other licensee.

(e) Failure of a licensee to report to the board in the time and manner required by this section shall be grounds for disciplinary action.

(f) For purposes of this section, a conviction includes the initial plea, verdict, or finding of guilt; a plea of no contest; or pronouncement of sentence by a trial court even though the conviction may not be final or sentence actually imposed until all appeals are exhausted.

8776.1. Within 30 days of entry of a conviction described in paragraphs (1) and (2) of subdivision (a) of Section 8776 or a judgment described in paragraph (3) of subdivision (a) of Section 8776 by a court of this state that has been notified that the defendant is a licensee of the board, the court that rendered the conviction or judgment shall report that fact to the board and provide the board with a copy of the conviction or judgment and any orders or opinions of the court accompanying or ordering the conviction or judgment.

8776.2. (a) Within 30 days of payment of all or any portion of any civil action judgment, settlement, or arbitration award described in Section 8776 against a licensee of the board in which the amount or value of the judgment, settlement, or arbitration award is fifty thousand dollars (\$50,000) or greater, any insurer providing professional liability insurance to that licensee shall report to the board the name of the licensee; the amount or value of the judgment, settlement, or arbitration award; the amount paid by the insurer; and the identity of the payee.

(b) Within 30 days of payment of all or any portion of any civil action judgment, settlement, or arbitration award described in Section 8776 against a licensee of the board in which the amount or value of the judgment, settlement, or arbitration award is fifty thousand dollars (\$50,000) or greater, any state or local government agency that self insures that licensee shall report to the board the name of the licensee; the amount or value of the judgment, settlement, or arbitration award; the amount paid; and the identity of the payee.

8776.3. The requirements of Sections 8776, 8776.1, and 8776.2 shall apply if a party to the civil action, settlement, or arbitration award is or was a sole proprietorship, partnership, firm, corporation, or state or local government agency in which the licensee is or was an owner, partner, member, officer, or employee and is or was the licensee in responsible charge of that portion of the project that was the subject of the civil judgment, settlement, or arbitration award.

8776.4. (a) Notwithstanding any other provision of law, a licensee shall not be considered to have violated a confidential settlement agreement or other confidential agreement by providing a report to the board as required by this article.

8776.5. The provisions of this article apply to a civil engineer licensed under Chapter 7 (commencing with Section 6700) prior to January 1, 1982, if the civil action judgment, settlement, or arbitration award relates to the practice of professional land surveying.

8776.6. The board may adopt regulations to further define the reporting requirements of Sections 8776, 8776.1, and 8776.2.

8776.7. This article shall become operative on July 1, 2006, only if an appropriation is made from the Professional Engineer's and Land Surveyor's Fund for the 2006–07 fiscal year in the annual Budget Act to fund the activities of this article, and sufficient hiring authority is granted to the board pursuant to a budget change proposal to provide sufficient staffing to implement this article.

SEC. 26. Section 8785 is added to the Business and Professions Code, to read:

8785. (a) A petitioner may petition the board for reinstatement or modification of penalty, including reduction, modification, or termination of probation, after the following

1 minimum periods have elapsed from the effective date of the
2 decision ordering the disciplinary action, or if the order of the
3 board or any portion of it is stayed by a court of law, from the date
4 the disciplinary action is actually implemented in its entirety:

5 (1) Except as otherwise provided in this section, at least three
6 years for reinstatement of a license or certificate that was revoked
7 or surrendered. However, the board may, in its sole discretion,
8 specify in its order of revocation or surrender a lesser period of
9 time that shall be at minimum one year.

10 (2) At least two years for early termination of a probation
11 period of three years or more.

12 (3) At least one year for early termination of a probation period
13 of less than three years.

14 (4) At least one year for reduction or modification of a
15 condition of probation.

16 (b) The board shall notify the Attorney General of the filing of
17 the petition. The petitioner and the Attorney General shall be given
18 timely notice by letter of the time and place of the hearing on the
19 petition, and the petitioner and the Attorney General shall be given
20 the opportunity to present both oral and documentary evidence and
21 argument to the board. The petitioner shall at all times have the
22 burden of proof to establish by clear and convincing evidence that
23 he or she is entitled to the relief sought in the petition.

24 (c) The board itself or an administrative law judge, if one is
25 designated by the board, shall hear the petition and shall prepare
26 a written decision setting forth the reasons supporting the decision.

27 (d) The board may grant or deny the petition or may impose any
28 terms and conditions that it reasonably deems appropriate as a
29 condition of reinstatement or reduction or modification of the
30 penalty.

31 (e) No petition shall be considered while the petitioner is under
32 sentence for any criminal offense, including any period during
33 which the petitioner is on court-imposed probation or parole. No
34 petition shall be considered while there is an accusation or petition
35 to revoke probation pending against the petitioner.

36 (f) The board may, in its discretion, deny without hearing or
37 argument any petition that is filed pursuant to this section within
38 a period of two years from the effective date of a prior decision
39 following a hearing under this section.

(g) Judicial review of the board's decision following a hearing under this section may be sought by way of a petition for writ of administrative mandamus pursuant to Section 1094.5 of the Code of Civil Procedure. The party seeking to overturn the board's decision shall have the burden of proof in any mandamus proceeding. In the mandamus proceeding, if it is alleged that there has been an abuse of discretion because the board's findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the whole record.

(h) For the purposes of this section, "petitioner" means a professional land surveyor or licensed civil engineer or a land surveyor-in-training whose license or certificate has been revoked, suspended, or surrendered or placed on probation.

SEC. 27. Section 18602 of the Business and Professions Code is amended to read:

18602. Except as provided in this section, there is in the Department of Consumer Affairs the State Athletic Commission, which consists of eight members. Six members shall be appointed by the Governor, one member shall be appointed by the Senate Rules Committee, and one member shall be appointed by the Speaker of the Assembly.

The members of the commission appointed by the Governor are subject to confirmation by the Senate pursuant to Section 1322 of the Government Code.

No person who is licensed under this chapter as a promoter, manager, or judge may be appointed or reappointed to, or serve on, the commission.

Upon the first expiration of the term of a member appointed by the Governor, the commission shall be reduced to seven members. Notwithstanding any provision of law, the term of that member shall not be extended for any reason.

This section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute, which becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the commission subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 28. Section 18613 of the Business and Professions Code is amended to read:

1 18613. The commission shall appoint an executive officer and
2 fix his or her compensation. The executive officer shall carry out
3 the duties prescribed by this chapter and additional duties as may
4 be delegated by the commission. The commission may employ in
5 accordance with Section 154 other personnel as may be necessary
6 for the administration of this chapter.

7 This section shall become inoperative on July 1, 2006, and, as
8 of January 1, 2007, is repealed, unless a later enacted statute,
9 which becomes effective on or before January 1, 2007, deletes or
10 extends the dates on which it becomes inoperative and is repealed.

11 SEC. 29. Section 18627 of the Business and Professions Code
12 is amended to read:

13 18627. (a) “Martial arts” means any form of karate, kung fu,
14 tae kwon-do, kickboxing or any combination of full contact
15 martial arts, including mixed martial arts, or self-defense
16 conducted on a full contact basis where a weapon is not used.

17 (b) “Kickboxing” means any form of boxing in which blows
18 are delivered with the hand and any part of the leg below the hip,
19 including the foot.

20 (c) “Full contact” means the use of full unrestrained physical
21 force in a martial arts contest.

22 (d) “Light contact” means the use of controlled martial arts
23 techniques whereby contact to the body is permitted in a restrained
24 manner, no contact to the face is permitted, and no contact is
25 permitted which may result or is intended to result in physical
26 harm to the opponent.

27 (e) “Noncontact” means that no contact occurs between either
28 contestant.

29 SEC. 30. Section 18640 of the Business and Professions Code
30 is amended to read:

31 18640. The commission has the sole direction, management,
32 control of, and jurisdiction over all professional and amateur
33 boxing, professional and amateur kickboxing, all forms and
34 combinations of forms of full contact martial arts contests,
35 including mixed martial arts, and matches or exhibitions
36 conducted, held, or given within this state. No event shall take
37 place without the prior approval of the commission. No person
38 shall engage in the promotion of, or participate in, a boxing or
39 martial arts contest, match, or exhibition without a license, and

1 except in accordance with this chapter and the rules adopted
2 hereunder.

3 SEC. 31. No reimbursement is required by this act pursuant
4 to Section 6 of Article XIII B of the California Constitution for
5 certain costs that may be incurred by a local agency or school
6 district because in that regard this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 However, notwithstanding Section 17610 of the Government
13 Code, if the Commission on State Mandates determines that this
14 act contains other costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code. If the statewide cost of the
18 claim for reimbursement does not exceed one million dollars
19 (\$1,000,000), reimbursement shall be made from the State
20 Mandates Claims Fund.

21 SEC. 32. Section 4.5 of this bill incorporates amendments to
22 Section 2472 of the Business and Professions Code proposed by
23 both this bill and Assembly Bill 932. It shall only become
24 operative if (1) both bills are enacted and become effective on or
25 before January 1, 2005, (2) each bill amends Section 2472 of the
26 Business and Professions Code, and (3) this bill is enacted after
27 Assembly Bill 932, in which case Section 4 of this bill shall not
28 become operative.

